



U.S. Department of Justice

*United States Attorney
Southern District of New York*

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One Saint Andrew's Plaza
New York, New York 10007*

March 19, 2018

BY ECF

The Honorable P. Kevin Castel
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

**Re: *United States v. Michael Little*
 S2 12 Cr. 647 (PKC)**

Dear Judge Castel:

The Government writes to request that its summary witness, Special Agent DeLeassa Penland, be permitted to remain in the courtroom during the presentation of evidence relevant to her testimony. Federal Rule of Evidence 615 provides that:

At a party's request, the court must order witnesses excluded so that they cannot hear other witnesses' testimony. Or the court may do so on its own. But this rule does not authorize excluding: (a) a party who is a natural person; (b) an officer or employee of a party that is not a natural person, after being designated as the party's representative by its attorney; (c) a person whose presence a party shows to be essential to presenting the party's claim or defense; or (d) a person authorized by statute to be present.

See also United States v. Jackson, 60 F.3d 128, 135 (2d Cir. 1995) (discussing the district court's discretion under Rule 615 and the factors a court could consider in exercising its discretion).

Agent Penland is a person whose presence is essential to the presentation of the Government's case under Rule 615(c). Her role as a summary witness is to know and summarize the evidence admitted at trial. In addition, the purpose for excluding a witness from the courtroom is "to discourage and expose fabrication, inaccuracy, and collusion." *United States*

Accordingly, the Government respectfully requests that Agent Penland be permitted to remain in the courtroom during the presentation of evidence relevant to her testimony. *See, e.g., United States v. Lussier*, 929 F.2d 25, 30 (1st Cir. 1991) (affirming the district’s decision to allow an IRS agent who would summarize evidence at the end of the government’s case to remain in the courtroom because “there would have been ‘little, if any reason’ to sequester him.” (quotation omitted)).

GEOFFREY S. BERMAN
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cc: Michael Little, Esq. (by ECF)
Sean Maher, Esq. (by ECF)